

Decision 03-10-082 October 30, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of application of ISSA ESSI & KAWKAB GHADDAR to transfer control of its passenger stage authority PSC-5911, to MANSOUR INTERNATIONAL, LLC, under § 851, et seq., of the California Public Utilities (PU) Code, to expand the service area to include points in the immediate vicinity under Commission jurisdiction (described in the body of the Application) in accordance with § 1036 (§ 1904(a)), et seq., of the PU Code; and establish a Zone of Rate Freedom (ZORF) under the Provisions of § 454.2 of the PU Code.

Application 03-02-032
(Filed February 26, 2003)

OPINION GRANTING RELIEF

1. Summary

This decision grants the application to transfer, pursuant to Pub. Util. Code § 851, et seq., a Passenger Stage Corporation (PSC) certificate from Issa Essi and Kawkab Ghaddar, dba Best Shuttle (a.k.a. Sahara Shuttle) (Transferor), a partnership, to Mansour International, LLC, (Transferee), collectively referred to as Applicants. Transferee is also authorized to expand its PSC certificate pursuant to § 1036, and establish a Zone of Rate Freedom (ZORF) pursuant to § 454.2.

2. The Application

Transferor is retiring from the passenger stage transportation business and wishes to transfer control of PSC-5911 (authorized by Decision (D.) 90-08-011) to Transferee, some of whose member-owners have been employed as drivers for Transferor. Transferee has agreed to take control and operate the passenger stage business authorized under PSC-5911.

PSC-5911 authorized Transferor to transport passengers and their baggage on an on-call, door-to-door, basis between Los Angeles International Airport (LAX), Long Beach Airport (LGB), John Wayne Airport (SNA), Los Angeles Amtrak Station and Los Angeles/Long Beach Harbors (HBRs), on the one hand, and points in Los Angeles and Orange counties, on the other hand.

Applicants seek under § 851, et seq., to transfer control of the passenger stage authority (PSC-5911) to Mansour International, LLC.

Transferee also seeks Commission authorization for an expansion of service, under § 1036 to include Burbank Airport (BUR), Ontario International Airport (ONT), and points in the counties of Riverside, San Bernardino and San Diego. Transferee states that the proposed expansion is in the immediate vicinity of the present service market area as authorized under PSC-5911.

Finally, Transferee seeks under § 454.2, et seq., to establish a ZORF of plus or minus thirty U.S. dollars (\pm \$30) over and under the present and proposed service area fares. No fares below \$5.00 will be offered under the proposed ZORF.

Applicants allege that the proposed transfer is in the public interest because:

- a. By transferring control of PSC-5911 to Transferee (a limited liability company formed by Applicants' operations managers), Applicants aim to ensure a continued passenger stage service to its customer-base under the existing tariff.
- b. Transferee members/managers are experienced driver/managers of the passenger stage business of Transferor.
- c. The member-owners (initial and new-members) and investors of Transferee will adequately finance the business.
- d. Transferee will have the necessary equipment, professional personnel and other resources to carry on and conduct the proposed passenger transportation business authorized.
- e. Transferee will be competing with substantially similar passenger stage services (with ZORF) and Taxicabs; as a result, a ZORF of $\pm \$30$ will allow Transferee to offer competitive fares in a timely manner, with 10 days notice to the Commission. Also, no fares below \$5.00 will be offered under the proposed ZORF.
- f. There will be no adverse effect upon any other carrier, or upon the public resulting from the transfer of PSC-5911.
- g. Mansour International, LLC, will staff its operation with trained and experienced personnel, including highly experienced drivers, having full knowledge of the safety rules and regulations of the Commission and the California Highway Patrol.
- h. The need for the proposed transfer and continued service is confirmed by Los Angeles Times' reports regarding future passenger increases through LAX and SNA.

3. The Protest

The application was protested by Mickey's Space Ship Shuttle and later withdrawn by a filing dated April 10, 2003.

4. Discussion

It is the established policy of this Commission to favor competition. *American Business, Inc.*, 3 CPUC2d 246 (1980). As stated in *American Airport Shuttle*, 52 CPUC2d 35, 36 (1993):

“The Commission's policy is that we do not consider monopoly passenger stage service adequate service to the public, and we will not apply Sec. 1032 of the PU Code as a bar to deprive the public of the most innovative, attractive, and agreeable bus service that may potentially exist for its benefits.”

In light of this stated policy it is our view that this application should be granted without an evidentiary hearing.

Transferee requests to extend Transferor's PSC authority to include points in the Counties of Riverside, San Bernardino, on the one hand, and LAX, LGB, BUR, ONT, SNA, HBRS, on the other hand, and San Diego, on the one hand, and LAX, ONT, SNA, and HBRS, on the other hand.

Transferee also requests authority to establish a ZORF of \$30 above and below any of the current fares of Transferor and the proposed fares as shown in Exhibit D of the application. The minimum fare will be \$5. Applicant will compete with other PSCs, taxicabs, limousines, buses, and automobiles in his service area. This highly competitive environment should result in Applicant pricing its services at a reasonable level. Many other PSCs have been granted ZORFs. The requested ZORF is generally consistent with the ZORFs held by

other PSCs. The unaudited Balance Sheet of Transferee indicates assets of \$1,051,400, liabilities of \$220,000 and equity of \$831,400.

5. Categorization

This matter appeared on the Commission Calendar dated February 28, 2003. In Resolution ALJ 176-3109, dated March 13, 2003 the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that no hearings were required. These preliminary determinations are confirmed.

6. Comments on the Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day period for public review and comment is being waived.

7. Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Bertram D. Patrick is the assigned ALJ in this proceeding.

Findings of Fact

1. Transferor desires to transfer PSC-5911 to Transferee, some of whose member-owners have been employed as drivers for Transferor.
2. Expansion of PSC-5911 and the establishment of a ZORF as described above is in the public interest because such service will provide the public with transportation choices at competitive rates.
3. Transferee indicates that it has the finances, equipment and experience to conduct the service proposed.
4. Transferee will be operating in direct competition with an existing carrier.

5. Transferee will compete with other PSCs, taxicabs, limousines, buses and automobiles in its operations.

Conclusions of Law

1. The Commission favors competition in the transportation industry.
2. Monopoly service is not considered to be adequate service under Pub. Util. Code § 1032.
3. Transferor's request to transfer PSC-5911 to Transferee should be granted.
4. Transferee's request to expand PSC-5911 and to create a ZORF, as described above, should be approved.
5. A public hearing is not necessary.
6. The application should be granted.

O R D E R

IT IS ORDERED that:

1. Within 120 days from the effective date of this decision, Issa Essi and Kawkab Ghaddar (Transferor), a partnership, may transfer their certificate of public convenience and necessity (CPCN) to operate as a passenger stage corporation (PSC) specified in this application to Mansour International, LLC (Transferee), a limited liability company, and Transferee is authorized to extend the CPCN to operate as a PSC, subject to the conditions contained in the following paragraphs.
2. Transferee shall:
 - a. File a written acceptance of this certificate within 30 days after this order is effective.
 - b. Establish the authorized service within 120 days after this order is effective and adopt Transferor's tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective and allow at least 10 days' notice to the Commission.

- c. Comply with General Orders Series 101 and 158, and the California Highway Patrol (CHP) safety rules.
- d. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- e. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so.
- f. Enroll all drivers in the pull notice system as required by Section 1808.1 of the Vehicle Code.

3. Transferee is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom (ZORF) of \$30 above and below any of the current fares of the Transferor and the proposed fares as shown in Exhibit D. The minimum fare will be \$5.

4. Transferee shall file a ZORF tariff in accordance with the application on not less than ten days' notice to the Commission and to the public. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

5. Transferee may make changes within the ZORF by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include between each pair of service points the authorized maximum and minimum fares and the fare to be charged.

6. In addition to posting and filing tariffs, Transferee shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

7. Transferee is authorized to begin operations on the date that the Consumer Protection and Safety Division mails a notice to Transferee that its evidence of insurance and other documents required by Ordering Paragraph 2 have been

filed with the Commission and that the CHP has approved the use of Transferee's vehicles for service.

8. The CPCN granted to Transferor by Decision 90-08-011 is revoked on the date Transferee is notified that it may commence operations as provided in Ordering Paragraph 7.

9. Before beginning service to any airport, Transferee shall notify the airport's governing body. Transferee shall not operate into or on airport property without authority from the airport's governing body.

10. The CPCN to operate as PSC-15930, granted herein as set forth in Appendix A to this decision, shall expire unless exercised within 120 days after the effective date of this order.

11. The Application is granted as set forth above.

12. This proceeding is closed.

This order is effective today.

Dated October 30, 2003, at San Francisco, California.

MICHAEL R. PEEVEY

President

CARL W. WOOD

LORETTA M. LYNCH

GEOFFREY F. BROWN

SUSAN P. KENNEDY

Commissioners

APPENDIX A

Appendix PSC-15930

Mansour International, LLC
(a Limited liability company)

Original Title Page

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-15930

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Supersedes the authority heretofore granted to
Issa Essi and Kawkab Ghaddar, a partnership, by D.90-08-011.

Issued under authority of Decision 03-10-082,
dated October 30, 2003, of the Public Utilities Commission
of the State of California in Application 03-02-032.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

This certificate supersedes all passenger stage operative authorities granted to Issa Essi and Kawkab Ghaddar, a partnership .

Mansour International, LLC, a limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on an "on-call" basis, between points and places as described in Section III, subject however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. The term "on-call", as used, refers to service which is authorized to be rendered dependent on the demands of passengers. The tariffs shall show the conditions under which each authorized on-call service will be provided, and shall include the description of the boundary of each fare zone, except when a single fare is charged to all points within a single incorporated city.
- c. No passengers shall be transported except those having a point of origin or destination as described in Sections IIB, IIC, or IID.
- d. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.
- e. No person shall be transported between any points or places within an incorporated city.

SECTION II. SERVICE AREA.

- A. Points and places in the Counties of Los Angeles, Orange,
*Riverside, *San Bernardino and *San Diego.
- B. Airports.
Los Angeles International, Long Beach, John Wayne Airport,
*Burbank, and*Ontario International.
- C. Los Angeles and Long Beach Harbors.
- D. Los Angeles AMTRAK Station.

*Extension of service area.

SECTION III. ROUTE DESCRIPTION.

Commencing from any point and place described in Section IIA, then over the most convenient streets, expressways, and highways to any point or place described in Sections IIB, IIC, and IID.

(END OF APPENDIX A)